

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

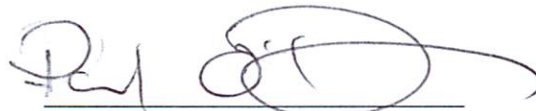
In re: Jamal Jbara,)	
)	
Jose Borges)	Case No. 1-09-48496-DEM ^{JBR}
Plaintiff)	Adversary No. 10-1004-DEM ^{JBR}
)	
Jamal Jbara)	NOTICE OF MOTION FOR
Defendant)	SUBSTITUTION OF COUNSEL

PLEASE TAKE NOTICE, that upon the annexed affirmation of PAUL O'DWYER, ESQ., attorney for Plaintiff, the undersigned will move this Court, at the term of this Court, located at 271 Cadman Plaza East, Room 3577, Brooklyn, New York, on October 18, 2010, at ^{11:00 AM} ~~10:30~~ a.m. or as soon thereafter as counsel can be heard for the following relief:

1. Substituting Jose Borges as Plaintiff *pro se* in this action; and
2. Extending the time for filing a pre-trial order for a period after the effective date of such substitution; and,
3. Such other and further relief as shall seem just and equitable.

Dated: Brooklyn, New York
September 23, 2010

Yours, etc.



Paul O'Dwyer, Esq.
Attorney for Plaintiff
134 West 26th Street, Suite 902
New York, New York 10001
(646) 230-7444

CLERK OF COURT
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK
2010 SEP 23 P 4:01
RECEIVED

To:

Jamal Jbara
1133 Broadway, Suite 908
New York NY 10010
(917) 415-0415

Jose Borges
18 Mulberry Ct.
Paramus NJ 07652
(917) 3045712

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re: Jamal Jbara,)	
)	
Jose Borges)	Case No. 1-09-48496-DEM
Plaintiff)	Adversary No. 10-1004-DEM
)	
Jamal Jbara)	AFFIRMATION
Defendant)	
)	

JBR
JBR

I, Paul O'Dwyer, affirm under penalty of perjury:

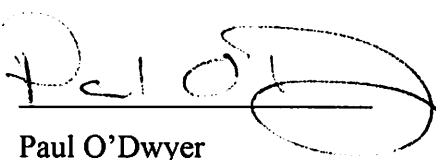
1. I am the counsel for Jose Borges, the Plaintiff in this Adversarial Bankruptcy Proceeding.
2. I also represent Plaintiff in an action pending in New York City Civil Court against Mr. Jbara and others, Jose Borges v. Entra-America, et al., Index No. 530-TSN-2004. On the eve of trial in that action, Mr. Jbara filed for bankruptcy in this Court and the matter in Civil Court was stayed. On behalf of Mr. Borges, I then filed an objection to the discharge of certain of Mr. Jbara's bankruptcy claims. The intention was to seek a stay of this adversarial proceeding pending the trial of the state court claims, as the outcome of that case would likely moot this claim. The Court did not grant a stay, and issued a scheduling order, with a pre-trial order due by September 7, 2010.
3. Mr. Borges and I then agreed that he would be substituted as Plaintiff *pro se* in this action, as it was never our intention or agreement that I would represent him in a trial in this Court. Furthermore, Mr. Borges has not paid me, and does not have the money to pay me, to represent him in this case. All of the work done and appearances made by me of his behalf thus far have been without any remuneration whatsoever.
4. Accordingly, on August 23, 2010, Mr. Borges and I executed and duly filed a

“Substitution of Counsel”. The Court subsequently informed me that this was insufficient to effect a substitution of counsel and that a formal motion was required with a return date of October 18, 2010.

5. I subsequently spoke with Defendant, Jamal Jbara (who is also *pro se*), regarding the proposed substitution, and the preparation of the pre-trial statement. Mr. Jbara expressed no objection to extending the date of filing the pre-trial statement to November 18, 2010, 30 days after the anticipated effective date of the substitution. This would allow Mr. Borges and Mr. Jbara adequate time to meet and prepare the joint pre-trial statement. I duly filed a proposed order to that effect. The Court signed the Order, but directed the pre-trial statement that it be filed on or before September 30, 2010.
6. I cannot afford to devote the time and resources required to prepare and file a pre-trial statement in this case without being paid. I am a solo practitioner, and I already carry a number of pro bono cases, and simply cannot undertake any additional non-paying work. I also wish to reiterate that it was never the intention of either myself or Mr. Borges, that I would prepare for or conduct a trial on this matter.
7. I respectfully request that the Court’s Order, directing the filing of a pre-trial statement by September 30, 2010, be vacated, and that a new date be set once this Motion for Substitution is determined.

Dated: Brooklyn, NY

September 23, 2010


Paul O'Dwyer

State of New York }
 } Ss.:
County of New York }


AFFIDAVIT OF SERVICE

I, Guillermo A. Nolivos, being duly sworn, hereby depose and say: that on the 23rd day of September, 2010, I served a copy of the within Motion for Substitution of Counsel on:

Mr. Jamal Jbara
1133 Broadway, Suite 908
New York NY 10010

Mr. Jose Borges
18 Mulberry Ct.
Paramus NJ 07652

by depositing a true copy thereof enclosed in a post-paid envelope, in an official depository under the exclusive care and custody of the U.S. Postal Service for Priority Mail delivery to the above address.



Guillermo A. Nolivos

Subscribed and sworn to before me
on September 23, 2010



Notary Public

PAUL O'DWYER
Notary Public, State of New York
No. 02OD6037266
Qualified in New York County
Commission Expires Feb. 14, 20 14

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re: Jamal Jbara,)
)
)
Jose Borges)
)
Plaintiff)
)
Jamal Jbara)
)
Defendant)
_____)

Case No. 1-09-48496-DEM

Adversary No. 10-1004-DEM

ORDER

IT IS HEREBY ORDERED, that Jose Borges, the Plaintiff in this action, is hereby substituted as Plaintiff *pro se* for Paul O'Dwyer, Esq. in the above bankruptcy adversary proceeding; and

IT IS ALSO ORDERED that the Pre-Trial Statement is to be filed on _____, 2010.

Dated: Brooklyn, NY

October __, 2010

So Ordered:

Hon. J. Rosenthal